

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



January 9, 2006

ALL COUNTY INFORMATION NOTICE NO. I-02-06

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS
ALL COUNTY WELFARE-TO-WORK COORDINATORS
ALL COUNTY REFUGEE PROGRAM COORDINATORS

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO
KIDS (CalWORKs) DOMESTIC ABUSE PROTOCOLS AND WAIVERS

REFERENCE: ALL COUNTY LETTERS 98-12, 97-72, 97-71, 97-54, 99-09, 00-07, 01-57, 03-15, 04-04 and ACIN 1-111-01

The purpose of this letter is to provide counties clarification regarding the domestic abuse protocols, regulations, and allowable program waivers for CalWORKs program applicants and recipients. This letter includes an attachment with specific questions and answers, with a primary focus on domestic abuse waivers.

Domestic abuse policies for the CalWORKs program were developed in consultation with the Domestic Violence Task Force (Task Force) nearly six years ago, as required by State law. California Department of Social Services (CDSS) convened a multidisciplinary Task Force that included representatives of State and county governments, domestic violence prevention groups, advocates, and service providers. In consultation with the Task Force, protocols were developed to identify and assist CalWORKs applicants and recipients who are past or present victims of domestic abuse to obtain employment and become self-sufficient. The Task Force was also required to identify training standards and curricula for staff serving CalWORKs recipients.

Task Force members worked diligently with CDSS to ensure that every consideration be provided to CalWORKs recipients and their families who are past or present victims of domestic abuse in order that they are not placed at further risk of domestic abuse, including strict confidentiality provisions and waiver of program requirements.

Based on the law [Assembly Bill 1542 (Chapter 270, Statutes of 1997)], the protocols, and training standards, CDSS issued regulations, Manual of Policies and Procedures (MPP) Section 42-715, that became effective January 1, 1999. Counties are strongly encouraged to review all domestic abuse policies and procedures regularly and apply

them consistently when serving the needs of families who are victims of domestic abuse as defined in MPP Sections 42-701 (d)(3) and (4).

The following information summarizes the domestic abuse regulations.

Identification and Informing Victims of Domestic Abuse (MPP Section 42-715.1)

Identification of individuals who are victims of domestic abuse is critical in order to provide the services individuals need to overcome this barrier and become self-sufficient. This section provides counties with the information and guidelines necessary to serve victims of domestic abuse. Counties must provide information regarding the availability of domestic abuse services at application, during the development of the welfare-to-work (WTW) plan, and at annual re-determination to assist individuals to escape from or stop future domestic abuse. This information must be provided both verbally and in writing. Counties should provide materials that include domestic abuse resources in the county, information on confidentiality and any required limits on confidentiality, available waivers of program requirements, safety planning, and information regarding county assistance on tailoring WTW plans to meet the needs of abuse victims. Counties should also provide information on exceptions to alien sponsor deeming requirements and on applying for legal alien status for aliens who are victims of domestic abuse.

Individuals must be provided a safe and private physical space to confidentially self-identify or disclose domestic abuse. Counties are reminded that sworn statements by a victim of abuse are sufficient to establish abuse unless the county documents an independent and reasonable basis to find that the individual is not credible. This section lists acceptable evidence of domestic abuse that an individual could provide, as necessary.

Individual Case Assessment (MPP Section 42-715.2)

Individual case assessment through staff trained to serve victims of abuse is crucial to develop WTW plans that meet the individual's need, and to determine the need for waivers of program requirements. This section specifies that each individual who has been identified as a victim of domestic abuse must be referred to staff trained in serving recipients who are victims of domestic abuse. Each individual must be assessed on an individual basis to develop a WTW plan that will not place the individual or his/her children at further risk and with which the recipient agrees. If the recipient and the county can not agree on a WTW plan, the recipient must be referred to a third party for resolution.

WTW plans must include consideration of 1) the degree to which domestic abuse is a barrier to obtaining employment, 2) flexibility to accommodate legal obligations, 3) cultural or religious needs, 4) protection for individuals in immediate danger, (5) the need for a waiver from program requirements, and 6) other services the victim and her or his

children need. If necessary services are not available, the county may waive certain WTW requirements for good cause.

Confidentiality (MPP Section 42-715.3)

Safety is of paramount concern for domestic abuse victims. This section states that information with respect to domestic abuse victims and their dependents must not be released to any outside party, governmental agency, or employee of the county welfare department who is not directly involved in the applicant's or recipient's case, unless the information is required to be disclosed by law or the individual provides written authorization. Further, all efforts must be made to preserve the confidentiality of the service provider and recipient relationship when reviewing the individual's participation in domestic abuse services which are part of his or her WTW plan.

Notice Requirements (MPP Section 42-715.4)

This section requires that county staff trained in serving recipients who are domestic abuse victims must discuss personal safety with such victims and provide them an opportunity to decide how they will receive communications and correspondence from the county. Case files must include documentation of any need for alternative notice requirements such as telephone calls, alternate mailing addresses, or hand delivery. Case files must have documentation, including a written statement signed by the individual, indicating the chosen method.

Waiver of Program Requirements (MPP Section 42-715.5)

This section specifies that counties may, on a case-by-case basis, waive any program requirement, with the exception of deprivation, assets, income, and homeless assistance for domestic abuse victims, when it has been determined that good cause exists. Counties are reminded that waivers are not limited to WTW program requirements. For example, counties may waive time limits on the receipt of cash assistance, paternity establishment, specified child support cooperation requirements, and the Maximum Family Grant (MFG) rules pursuant to MPP Sections 44-314.3 and .4.

Counties must develop criteria for waiving program requirements for as long as domestic abuse prevents the individual from obtaining employment or participating in WTW activities. CDSS strongly encourages counties to ensure that these written criteria are comprehensive and focused on meeting the needs of domestic abuse victims. In developing criteria, counties can establish the duration of waivers as long as the granting of waivers complies with State and federal regulations. Criteria for granting waivers must ensure the following:

- Past or present victims of abuse are not placed at further risk or unfairly penalized by CalWORKs program requirements and procedures.

- Program requirements are not created or applied in such a way as to encourage a victim to remain with the abuser.
- Participation in WTW activities is encouraged to the full extent of participants' abilities, including participation in treatment programs or alternative activities designed to respond to the domestic abuse circumstances, to enable the individual to obtain unsubsidized employment and move toward self-sufficiency.

Please see attached questions and answers for more specific information regarding waiver of program requirements for victims of domestic abuse.

Standards for Training Curricula (MPP Section 42-715.6)

In order to appropriately serve victims of domestic abuse, it is critical to train and retrain staff regarding the special needs of these families. This section requires that staff who are responsible for working with CalWORKs recipients be trained to assist them in working with domestic abuse victims. However, counties have flexibility in determining which staff will be trained, when they will be trained, and how often the training will occur. Counties are encouraged to use domestic abuse experts from the local community, such as domestic abuse advocates, to deliver, or to assist in delivering, this training and to provide an awareness of the availability of resources within the local community. Training must provide staff with an awareness of the dynamics of domestic abuse and the impact of violence on the family. Training must be culturally competent and include, at a minimum, the following information:

- How to interview victims, the indicators of domestic abuse, the prevalence of drug and alcohol abuse and mental health issues among victims of domestic abuse, how to obtain information about the abusers, and possible referrals to appropriate services and available resources.
- How abuse can interfere with an individual's ability to meet CalWORKs program requirements, and how the services provided through the CalWORKs program assist victims of domestic abuse in becoming self-sufficient.
- County policies regarding treatment of victims of domestic abuse including, but not limited to, confidentiality rules, provisions for a safe and private physical space for disclosing abuse, requirements for monitoring the individual's progress, amending the WTW plan, informing requirements, and the criteria for granting waivers.

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- The impact of domestic abuse on recipients and their families, domestic abuse provisions applicable to non-citizens, coordination on family support issues, crisis management/risk assessment, and recognition and management of the county worker's own biases.

Counties are reminded that it is critical to continue to provide domestic abuse training for new staff and retrain staff as appropriate. Counties may develop their own training tools or use CDSS's two-day training curriculum for identifying and serving domestic abuse victims in the CalWORKs program. This training, developed by the University of California, Davis, is an excellent resource for counties. The Statewide *Domestic Abuse Training for CalWORKs Staff* was released in 2001 and was presented to county welfare department staff through a series of training forums beginning in May of 2002.

If you have any questions about this letter, you may call Jessica M. Lee at (916) 654-1785. If you have questions regarding domestic abuse regulations and waivers in general, please contact your CDSS Employment Bureau county consultant at (916) 654-2137.

Sincerely,

Original Document Signed by:

KAREN CAGLE, Chief
Employment and Eligibility Branch

Attachment

c: CWDA
CSAC

CALWORKS PROGRAM DOMESTIC ABUSE POLICY QUESTIONS AND ANSWERS

1. **Question:** Are there procedural safeguards that must be provided to a recipient who is a victim of domestic abuse in order to ensure that his/her safety is not jeopardized by communications, either written or verbal?

Answer: Yes. Safety is of paramount concern in cases involving domestic abuse as specified in Manual of Policies and Procedures (MPP) Sections 42-715.13 and 42-715.4. Among other safety measures, counties are required to provide information to victims of abuse in a safe and private physical space. County staff should meet with applicants/recipients alone when they are discussing domestic abuse as the abuser may have accompanied the participant to the County Welfare Department (CWD) office. In some cases, alternatives to in-office appointments may be arranged.

Counties must arrange for the availability of alternate means for the recipient to receive written or phone communication (i.e., alternative address/number, P.O. Box, in-person pick-up) as the abuser may have access to the recipient's mail and/or telephone calls. Also, All County Letter (ACL) 01-57 details the "Safe at Home California Confidential Address Program." California Department of Social Services (CDSS) strongly encourages counties to provide this program information to applicants and recipients. Counties can access www.ss.ca.gov/safeathome for further information about this program.

2. **Question:** Must a county have written domestic abuse policies?

Answer: Yes. MPP Section 42-715.52 requires counties to have developed domestic abuse policies; and MPP Section 11-501.3 requires counties to have written clarification of those areas of the California Work Opportunity and Responsibility to Kids (CalWORKs) program in which counties have discretion to adopt specific standards that affect a client's eligibility, grant amount, and Welfare-to-Work (WTW) activities, including supportive services. Counties should refer to ACL 00-08 for further clarification.

3. **Question:** Can a county have a general policy that no one gets a domestic abuse waiver for any reason?

Answer: No. As specified in MPP Section 42-715.52, counties must develop criteria for waiving program requirements for past and present victims of domestic abuse.

4. **Question:** Must a county allow an individual to self-declare as a victim of domestic abuse?

Answer: Yes. As specified in MPP Section 42-715.12, counties must allow individuals to self-declare. Sworn statements by a victim of past or present abuse shall be sufficient to establish abuse unless the county documents in writing an independent and reasonable basis to find the applicant or recipient not credible. In those instances, a county may request additional supporting documentation such as documentation from legal, clerical, medical, or other professionals.

5. **Question:** Can the county require recipients to participate in full-time domestic abuse services (such as a behavioral health program) as a condition of waiving program requirements?

Answer: That depends. Counties must base their decision on an individual case assessment. Victims of domestic abuse should participate in WTW activities to the extent of their abilities, such as participation in behavior health treatment programs as part of their modified WTW plan. Counties may develop criteria to require participation as a condition for waiving program requirements. For example, a county may have a criterion that a recipient who has been granted a waiver to the 32-hour participation requirement, must participate in his or her modified WTW activities, which may include behavioral health treatment, to remain eligible for the waiver. However, counties are reminded to design a WTW plan which will not place the individual at further risk and to which the recipient can agree as specified in MPP Section 42-715.21 and provide all necessary supportive services.

6. **Question:** Can a county grant a recipient request to retroactively waive program requirements for a recipient who is or was a victim of domestic abuse?

Answer: Yes. On a case-by-case basis, counties may provide retroactive waivers to recipients who are victims of domestic abuse. The county's criteria for granting retroactive waivers must be provided for in the county domestic abuse standards and policies. Also, retroactivity cannot precede the implementation of the CalWORKs domestic abuse provisions on January 1, 1998.

7. **Question:** If an individual has received a domestic abuse waiver from participating in WTW activities and the development of a WTW plan, can the adult(s) participate in activities? If so, will the recipient receive supportive services for his or her activities?

Answer: In circumstances in which severe domestic abuse prevents the recipient from participating in any WTW activity, counties may waive all WTW requirements, including the development of a WTW plan, on a temporary basis until the individual's situation is stable. If an individual is able to participate in limited activities, the county should develop a modified WTW plan that meets the individual's needs and would only waive specific program requirements, such as the 32- or 35-hour participation requirement, as appropriate. When a county waives the development of the WTW plan or develops a modified WTW plan, the CWD should also consider waiving the 60-month time limit for situations in which continuing to run the time limit clock would unfairly penalize the recipient. Supportive services must be provided to every individual in order to participate in the activity to which she or he is assigned or to accept or retain employment.

8. **Question:** Can the county require the recipient to obtain a Temporary Restraining Order?

Answer: No. The county cannot require the recipient to obtain a Temporary Restraining Order (TRO). Only the recipient can determine whether a TRO or other recourse is a safe and appropriate step to take.

9. **Question:** Must a Notice of Action (NOA) be issued when a request for a domestic abuse waiver is denied or granted?

Answer: Yes. The CWD must issue an adequate and timely NOA when it grants or denies a waiver request as specified in MPP Sections 22-001 (a)(1), (c)(5), and 22-071 and 072. It is critical that counties follow NOA requirements when denying an applicant or recipient a request for a waiver of program requirements. Currently, the State has not issued a NOA for county use specific to domestic abuse waiver requests. Therefore, counties must use a county designed NOA for this purpose. All NOAs must include the state hearing notice, NA back 9.

10. **Question:** Must an individual request a domestic abuse waiver of a rule or policy within 90 days of receiving notice from the county that the WTW rules are being applied to him/her or within 90 days of the date the recipient learns that he/she may request a waiver?

Answer: No. There is no time limit for an individual to request a domestic abuse waiver. The 90-day deadline limits only the individual's right to request a State hearing after receipt of a written NOA.

11. **Question:** Are counties allowed to waive the Maximum Family Grant (MFG) rule pursuant to MPP Section 44-314.3 - .4 for victims of domestic abuse?

Answer: Counties may waive the MFG rule, on a case-by-case basis, when it is determined that compliance would put at further risk or unfairly penalize those who are or have been victimized by such abuse. The MFG rule could be waived permanently for a child even if the domestic abuse situation is resolved or no longer exists. However, the county must make a separate determination of eligibility for an exemption to the MFG rule or a domestic abuse waiver, for any subsequent child.

12. **Question:** Can the asset rules be waived for victims of domestic abuse?

Answer: No. As specified in MPP Section 42-715.511, the waiver of asset requirements under the CalWORKs program is prohibited. Asset regulations can be found in MPP Section 42-200 (Property)

13. **Question:** Can the ineligibility for drug felony convictions be waived for a victim of domestic abuse?

Answer: No. Federal law does not allow drug felons to be eligible for cash aid under a state's Temporary Assistance for Needy Families (TANF) program, unless the State has enacted a law to provide for the aid at the State level. To date, California has not enacted such a law.

14. **Question:** Can immigration eligibility requirements be waived for applicants under the domestic abuse provisions?

Answer: No. The non-citizen immigration status eligibility requirements for CalWORKs applicants cannot be waived under the domestic abuse provisions. These eligibility requirements are set by federal law. Undocumented non-citizens are not eligible for CalWORKs. However, battered non-citizens are eligible under

the State law provision that allows non-citizens who are permanently residing under color of law (PRUCOL) to receive aid. If an applicant has a USCIS [United States Customs and Immigration Service, formerly the Immigration and Naturalization Service (INS)] document which indicates an approved petition or a pending petition which sets forth a prima facie case for legal status or a court order from the Executive Office for Immigration Review (EOIR) awarding legal status, this battered non-citizen may be eligible for assistance. All County Letter 00-07 provides information on eligibility requirements for CalWORKs battered non-citizen applicant/recipients and on existing regulations that can assist counties in eligibility determinations for this population.

15. **Question:** Can a county waive the Self-Initiated Program (SIP) rules for a victim of domestic abuse?

Answer: Yes. There are no regulatory requirements that preclude the county from waiving the SIP requirements specified in MPP Section 42-711 for domestic abuse victims, as long as the domestic abuse circumstances prevented the individual from meeting the SIP rules at appraisal.

16. **Question:** Senate Bill 1104 (Chapter 78, Statutes of 2004) emphasized participation in work activities by requiring that recipients engage in 20 hours of core work activities. Does this mean that domestic abuse cases must meet the 20-hour core work activity requirement?

Answer: It depends. The county may require a victim of domestic abuse to engage in 20 hours of core work activities unless it is determined that the individual's domestic abuse situation warrants a waiver of the work activity requirements. In this case, the 20-hour core work activities requirement may be waived in the alternate WTW plan.

17. **Question:** Are domestic abuse recipients required to participate in 32/35 hours of work activities?

Answer: It depends. The county may require a victim of domestic abuse to participate for 32/35 hours in WTW work activities unless it is determined that the individual's domestic abuse situation warrants a waiver of the 32/35 hours of participation requirement. On a case-by-case basis, the 32/35-hour participation requirement may be waived in the alternate WTW plan.

18. **Question:** Are there circumstances that allow the child support cooperation requirements to be waived for applicants and recipients?

Answer: Yes. As specified in MPP Section 42-715.512, the child support cooperation requirements as specified in MPP Section 82-512.11 may be waived for a past or present victim of domestic abuse. MPP Section 82-512.11 allows the victim of abuse to be exempt from the cooperation requirements if the applicant or recipient demonstrates that such cooperation will increase the risk of physical, sexual, or emotional harm to the child or to the parent or caretaker relative.